



U.S. Department of Justice

United States Attorney
Southern District of New York

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New York, New York 10007

DOCUMENT
ELECTRONICALLY FILED

12/10/19

December 9, 2019

12/10/19

Motion stayed pending
resolution of defendant's
appeal on docket 18-1040.

BY ECF & ELECTRONIC MAIL

The Honorable Colleen McMahon
Chief United State District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: **Gibron Lopez v. United States**
16 Cv. 9095 (CM); 15 Cr. 002 (CM)

Dear Chief Judge McMahon:

MEMO ENDORSED

The Government writes in connection with the pending Section 2255 motion in the above-captioned case, involving a claim related to the constitutionality of the defendant's Section 924(c) conviction under *United States v. Davis*, 139 S. Ct. 2319 (2019). As the Court is aware, the defendant was separately convicted of Hobbs Act robbery and Hobbs Act robbery conspiracy offenses under docket number 16 Cr. 323 (KPF) and was sentenced principally to 40 years' imprisonment. That conviction and sentence are currently on appeal; oral argument in connection with the appeal was held before the Second Circuit on December 6, 2019. A decision from the Second Circuit is anticipated in the near future.

In light of the length of the defendant's sentence in the matter on appeal, the Government has conferred with defense counsel regarding a further stay of the Section 2255 proceedings in the instant matter. Defense counsel informed the Government that the defendant consents to such a stay until after the appeal in the other matter is fully resolved. Accordingly, the Government respectfully requests that the Court stay proceedings in this case until after the Second Circuit has decided the issues on appeal in Second Circuit docket number 18-1040.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: _____/s

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cc: David Touger, Esq. (by ECF and electronic mail)